

ATTACHMENT - REMARKS

Claims 1-10 and 12-24 are pending in the present application. By this Amendment, Applicants have amended claims 1, 19 and 20. Applicants respectfully submit that the present application is in condition for allowance based on the discussion which follows.

As an initial point, Applicants gratefully appreciate the Examiner and his supervisor conducting a personal interview with their representative, Mr. Stephen Weyer, on August 26, 2009. In accordance with that interview, Applicants have amended the claims as discussed during the interview, and present the following remarks.

In the outstanding Office Action, the previously submitted formal drawing was objected to for including a scale "1 μm ," which was allegedly not supported by the specification as filed. By this Amendment, Applicants have submitted a replacement figure which does not include the scale "1 μm ," thereby obviating the objection to the specification under 35 U.S.C. § 132(a).

Further, in the outstanding Office Action, claims 1-15 and 24 were rejected under 35 U.S.C. § 112, first paragraph, with regard to claim element "groups (G)." In accordance with the Examiner Interview, by this Amendment, Applicants have replaced the phrase "groups (G)" with the term "aliphatic groups" to more clearly recite Applicants' invention. Subject matter basis for the amendments to the claims can be found in the specification as filed, including page 10, lines 15-25 and, in particular, the last paragraph. Accordingly, the amendments to the claims do not constitute new matter. Further, Applicants respectfully submit that the amendments to the claims are

appropriate in this Amendment After Final, as the claim amendments are consistent with how the Examiner has previously interpreted the claims and applied prior art in examining the previously presented claims. Further, the amendments to the claims include subject matter previously examined in the dependent claims, including claim 9, and are consistent with the arguments previously presented in the Remarks to the last Amendment, supporting the term "groups (G)," in accordance with the present specification. Therefore, only a cursory review will be necessary to examine the amended claims. Finally, the claim amendments remove issues in this case and, thus, narrow any issues for appeal.

Based on the foregoing, Applicants respectfully submit that the claim amendments are appropriate for entry in this Amendment After Final. Further, Applicants respectfully submit that the amendments to the claims obviate the 35 U.S.C. § 112, first paragraph (written description) rejection to the claims with regard to the previously claimed term "groups (G)."

With regard to the 35 U.S.C. § 112, first paragraph rejection to the claims based on the C₁₂ aliphatic groups, as discussed during the Examiner Interview, this rejection has been withdrawn.

Based on the foregoing, Applicants respectfully submit that all claims are in compliance with the requirements of 35 U.S.C. § 112, first paragraph.

Claims 1-15 and 24 were rejected under 35 U.S.C. § 112, second paragraph. During the Examiner Interview, these rejections were withdrawn.

Claims 1-15 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Amiel et al., *Stimuli-Responsive Water Soluble and Amphiphilic*

Polymers -- ACS Symposium Series; Chapter 4: "Macromolecular Assemblies Generated by Inclusion Complexes between Amphiphilic Polymers and β -Cyclodextrin Polymers in Aqueous Media" (hereinafter Amiel).

Without addressing the merits of the prior art rejection to the claims, Applicants have amended claim 1 to include the subject matter of dependent claim 11 to further highlight additional novel features of the present invention over the cited prior art. Applicants reserve the right to file a continuation application based on the prior presented claimed subject matter. As amended, the claimed composition is specifically directed to a composition in which at least 80% of compounds (A) and (B) are contained in the particles (p) and, thus, the remaining mass of compounds (A) and (B), individually, dissolved in the aqueous solution.

Applicants respectfully submit that it will be clear to one of ordinary skill in the art that one major difference between the aggregates in Amiel and the particles according to the present invention is that, in the present composition, most of the polymers (A) and macromolecules (B) present in the composition are contained within the particles dispersed in an aqueous medium or aqueous phase. Accordingly, only a small amount, i.e. less than 20% of compounds (A) and (B) will be present individually, i.e. not contained in the particles (p). Conversely, in Amiel, the composition comprises a continuous aqueous phase, including all of the polymers (A) and macromolecules (B), wherein only some of the molecules (in access to be solubilized) form aggregates in the continuous phase, when the composition has a sufficiently high concentration. Thus, it is clear that the composition of Amiel does not in any way anticipate that the claimed at least 80% of polymers and macromolecules of the composition are in the particles.

Further, Amiel does not provide any instruction or in any way enable one of ordinary skill in the art to produce a composition in which at least 80% of the polymers and macromolecules of the composition are in the particles, as claimed. Conversely, the present inventors have developed a method, as disclosed in the present specification, which now allows one to obtain the claimed composition in a specific metastable phase, which was previously unknown in the art, including Amiel.

Furthermore, the claimed composition has features and advantages which would have been unknown to one of ordinary skill in the art from Amiel and, therefore, one of ordinary skill in the art would not have been led to modify Amiel in any way to arrive at the claimed invention. Specifically, the particles now claimed are metastable, e.g., form a dispersion and are not dissolved in an aqueous medium and, as such, can be introduced into a dilute composition without being destroyed, i.e. dissolved. In other words, if a dispersion according to the present invention is dilute, then the particles will remain metastable and, thus, not in solution, whereas if the dispersion according to Amiel is diluted, the aggregates disappear by dissolving into the continuous phase.

Based on the foregoing, Applicants respectfully submit that claim 1 is not anticipated or in any way obvious from Amiel. Further, Applicants respectfully submit that dependent claims 2-10, 12-15 and 24 are further novel and not in any way obvious from Amiel for at least the same reasons as discussed above with regard to claim 1, and further for reciting additional elements which, individually or in combination with the subject matter of claim 1, are further novel and non-obvious in view of Amiel.

Finally, Applicants respectfully request rejoinder of claims 16-23, previously withdrawn from consideration. In accordance with the discussion above, the subject

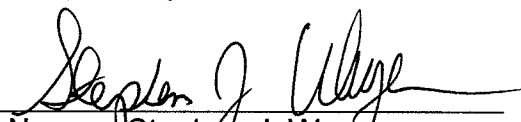
matter of claims 1-10, 12-15 and 24 should be found allowable. Accordingly, the subject matter of the withdrawn claims, 16-23, which are method claims which depend from claim 1 directly or indirectly will, therefore, present allowable subject matter. Furthermore, during prosecution, Applicants have maintained the right to request rejoinder by amending the withdrawn claims, so that the withdrawn claims, throughout prosecution, correspond to, and include, the subject matter which should now be found allowable. Accordingly, Applicants respectfully request that the withdrawn claims be rejoined and found allowable in the present application.

In view of the foregoing, Applicants respectfully submit that all claims are now in condition for allowance.

Respectfully submitted,

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